

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Zhao)	Group No.: 2617
)	
Serial No.: 10/789,298)	Examiner: Bhattacharya
)	
Filed: 02/27/2004)	Docket: 0108-0241/US
)	

For: METHODS AND APPARATUS FOR FACILITATING
CONCURRENT PUSH-TO-TALK OVER CELLULAR (POC)
GROUP COMMUNICATION SESSIONS

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RENEWED PETITION UNDER 37 CFR § 1.181
TO WITHDRAW THE HOLDING OF ABANDONMENT

In response to the Decision On Petition of 19 June 2008 for the above-referenced patent application, the Practitioner respectfully submits this Renewed Petition Under 37 CFR 1.181 To Withdraw The Holding Of Abandonment.

RENEWED PETITION UNDER 37 CFR § 1.181
TO WITHDRAW THE HOLDING OF ABANDONMENT

The Practitioner respectfully submits this *Renewed Petition Under 37 CFR § 1.181 To Withdraw The Holding Of Abandonment* in response to the *Decision On Petition* of 19 June 2008 for the above-referenced patent application.

Background. A Notice Of Abandonment was mailed on October 04th 2007 for the above-referenced patent application. In the Notice of Abandonment, the subject patent application was abandoned based on the applicant's failure to respond to the Office Action dated 17 January 2007. However, the Office Action dated 17 January 2007 was never received by the Applicant. Thus, the Petitioner submitted a *Petition To Withdraw The Holding Of Abandonment* on 24 October 2007. In the *Decision On Petition* of 19 June 2008, the Petition was dismissed for reasons indicated below.

In response to the *Decision On Petition*, the Applicant respectfully submits this *Renewed Petition Under 37 CFR 1.181 To Withdraw The Holding Of Abandonment*.

Decision On Petition. As mentioned above, the *Decision On Petition* of 19 June 2008 dismissed the *Petition* of 24 October 2007. The *Decision On Petition* of 19 June 2008 stated the following:

A review of the written record indicates no irregularity in the mailing of the Office Action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the

showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

The petition fails to satisfy requirement (3) above.

Reasons Why The Renewed Petition Should Be Granted. The Petitioner respectfully disagrees with the above reasons for dismissal, and submits that the present *Renewed Petition* should be granted for the following reasons:

- (A) The written record does indicate that there was an irregularity in the mailing of the Office Action; and
- (B) Requirement (3) above has indeed been satisfied.

Regarding (A) above, the Petitioner has demonstrated that there was an irregularity in the mailing of the Office Action dated 17 January 2007, and hereby confirms the same. In brief, the Office Action dated 17 January 2007 was in fact returned to the USPTO as undeliverable.

The Image File Wrapper listing for the subject application from the Patent Application Information Retrieval (PAIR) website of the USPTO confirms that there was an irregularity in the mailing. See the Image File Wrapper listing in Attachment #1. From the Image File Wrapper listing, it is indicated that the "Non-Final Rejection" was mailed on 17 January 2007 and that "Mail returned to USPTO as undeliverable" was

received by the USPTO on 24 January 2007 (see boxes around such description for clarity). See Attachment #2 which is a copy of this "Mail returned to USPTO as undeliverable," which is indeed the Non-Final Rejection of 17 January 2007. Note the date stamped on the returned Non-Final Rejection, which is 24 January 2007.

Thus, the written record clearly indicates that the Office Action was returned to the USPTO – a clear irregularity in the mailing of the Office Action – and therefore the Applicant did not receive such Office Action.

Regarding (B) above, the Petitioner has indeed satisfied requirement (3) above and hereby confirms the same.

In response to the indication in the *Decision On Petition* that the Patent Record Sheet was not legible, the Petitioner hereby attaches the same Patent Record Sheet in enlarged and more readily viewable format in Attachment #3. This is indeed the docket record from the Practitioner's docketing software where the non-received Office Action would have been entered had it been received and docketed. As apparent, there is no entry for the Office Action dated 17 January 2007. The Office Action mailed on 17 January 2007 was not received by the Practitioner and/or at the RIM office associated with the correspondence address, as indicated in the practitioner's statement which had made reference to the Patent Record Sheet. This is further proof of non-receipt of the Office Action of 17 January 2007; provided in addition to the irregularity in the mailing of the Office Action as described above.

As illustrated in Attachment #3, the system used for recording an Office action received at the correspondence address of record with the USPTO is the Eureka Intellectual Property System. This docketing system is well-known and sufficiently reliable for typical docketing needs such as Office Actions. Office actions are docketed in such system within at least a week of receipt, if not substantially immediately upon receipt.

Final Comments. Based on the above, the Petitioner respectfully requests reconsideration of the Renewed Petition and that the *Renewed Petition* be granted. As apparent from the above, the Office Action dated 17 January 2007 was never received by the Applicants.

Thank you. The Petition Reviewer is invited to contact the undersigned by telephone if necessary to expedite this matter.

Respectfully Submitted,

/John J. Oskorep/

Date: 01 August 2008

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ATTACHMENT #1



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10/789,298 **Methods and apparatus for facilitating concurrent push-to-talk over cellular (PoC) group communication sessions**

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This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Start Download.

Available Documents

Mail Room Date	Document Code	Document Description	Page Count	Select All	Start Download	Clear All
06-19-2008	PETDEC	Petition Decision	3	<input type="checkbox"/>		
10-24-2007	PET.OP	Petition for review by the Office of Petitions.	19	<input type="checkbox"/>		
10-24-2007	N417	EFS Acknowledgment Receipt	2	<input type="checkbox"/>		
10-04-2007	ABN	Abandonment	2	<input type="checkbox"/>		
01-24-2007	RETMAIL	Mail returned to USPTO as undelivered	13	<input type="checkbox"/>		
01-17-2007	CTNF	Non-Final Rejection	8	<input type="checkbox"/>		
01-17-2007	892	List of references cited by examiner	1	<input type="checkbox"/>		
01-17-2007	1449	List of References cited by applicant and considered by examiner	3	<input type="checkbox"/>		
01-17-2007	FWCLM	Index of Claims	1	<input type="checkbox"/>		
01-17-2007	SRFW	Search Information Including classification, databases and other search related notes	1	<input type="checkbox"/>		
01-17-2007	BIB	Bibliographic Data Sheet	1	<input type="checkbox"/>		
01-06-2007	SRNT	Examiner's search strategy and results	1	<input type="checkbox"/>		
09-22-2006	C.AD	Change of Address	2	<input type="checkbox"/>		
05-12-2005	IDS	Information Disclosure Statement (IDS) Filed	4	<input type="checkbox"/>		
05-12-2005	NPL	NPL Documents	8			
07-26-2004	TRTC	Transmittal to IC	1	<input type="checkbox"/>		
07-26-2004	OATH	Oath or Declaration filed	6	<input type="checkbox"/>		
07-26-2004	PEFR	Applicant Response to Pre-Exam Formalities	4	<input type="checkbox"/>		
07-26-2004	OATH	Notice Oath or Declaration filed	3	<input type="checkbox"/>		

05-28-2004	PEFN	<u>Pre-Exam Formalities Notice</u>	2	<input type="checkbox"/>
05-25-2004	WFEE	<u>Fee Worksheet (PTO-06)</u>	1	<input type="checkbox"/>
02-27-2004	TRNA	<u>Transmittal of New Application</u>	3	<input type="checkbox"/>
02-27-2004	SPEC	<u>Specification</u>	23	<input type="checkbox"/>
02-27-2004	CLM	<u>Claims</u>	8	<input type="checkbox"/>
02-27-2004	ABST	<u>Abstract</u>	1	<input type="checkbox"/>
02-27-2004	DRW	<u>Drawings-only black and white line drawings</u>	8	<input type="checkbox"/>
02-27-2004	OATH	<u>Oath or Declaration filed</u>	2	<input type="checkbox"/>
02-27-2004	IDS	<u>Information Disclosure Statement (IDS) Filed</u>	2	<input type="checkbox"/>
02-27-2004	FOR	<u>Foreign Reference</u>	19	<input type="checkbox"/>
02-27-2004	FOR	<u>Foreign Reference</u>	38	<input type="checkbox"/>
02-27-2004	FOR	<u>Foreign Reference</u>	27	<input type="checkbox"/>
02-27-2004	WFEE	<u>Fee Worksheet (PTO-06)</u>	1	<input type="checkbox"/>
02-27-2004	WFEE	<u>Fee Worksheet (PTO-06)</u>	1	<input type="checkbox"/>
02-27-2004	WFEE	<u>Fee Worksheet (PTO-06)</u>	1	<input type="checkbox"/>
02-07-2004	CLM	<u>Claims</u>	8	<input type="checkbox"/>

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- If you experience technical difficulties or problems with this application, please report them via e-mail to Electronic.Business.Support@USPTO.gov or call 1 800-786-9199.

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ATTACHMENT #2



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,298	02/27/2004	Wen Zhao	0108-0241/US	7620

54120 7590 01/17/2007
RESEARCH IN MOTION, LTD
102 DECKER CT.
SUITE 180
IRVING, TX 75062

EXAMINER

BHATTACHARYA, SAM

ART UNIT	PAPER NUMBER
----------	--------------

2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<div style="position: relative; height: 100px;"> <div style="position: absolute; top: 0; left: 0; width: 100%; height: 100%; border: 1px solid black; border-radius: 50%; text-align: center; line-height: 100px; font-size: 24px; font-weight: bold;"> O I P E </div> <div style="position: absolute; top: 10%; left: 10%; font-size: 12px;"> JAN 24 2007 </div> </div>	Application No. 10/789,298	Applicant(s) ZHAO ET AL	
	Examiner Sam Bhattacharya	Art Unit 2617	

Office Action Summary

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 27 February 2004.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-36 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-36 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date see 1449s.

4) ☐ Interview Summary (PTO-413)

Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 34-37 have been renumbered 33-36.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmusto (US 5,809,018) in view of Chakraborty et al. (US 2005/0176454).

Regarding claims 1, 16, 25 and 33, Lehmusto discloses a cellular server of a wireless communication network, including one or more processors 205; memory 209; computer instructions stored in memory; the one or more processors being operative in accordance with the computer instructions to facilitate cellular communication sessions between mobile stations by maintaining a first cellular communication session between a first user group; and concurrently maintaining a second cellular communication session between a second user group, the second

user group having at least one common member with the first user group. See FIG. 2 and col. 4, line 36-63.

Lehmusto fails to disclose that the group communication is a push-to-talk-over-cellular (PoC) communications. In an analogous art, Chakraborty discloses cellular telephone group calls in PoC communications. See paragraph 7, lines 1-6. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system in Lehmusto by incorporating it into a PoC system for the purpose of allowing users of trunked communications to use the cellular system.

Regarding claims 2, 17 and 26, Lehmusto discloses that the second user group has at least one member which is not included in the first user group. See col. 4, lines 24-34.

Regarding claims 3, 18 and 27, Lehmusto discloses that all members of the second user group are included in the first user group. See col. 5, lines 3-12.

Regarding claims 4, Lehmusto discloses the method being performed by a server of a communication network. See FIG. 3 and col. 5, lines 32-46.

Regarding claims 5, Lehmusto discloses the method being performed by a mobile station corresponding to the at least one common member. See col. 4, lines 24-34.

Regarding claims 6, Lehmusto discloses that the method is embodied in a computer program product including a computer storage medium and computer instructions stored in the computer storage medium. See col. 6, lines 1-23.

Regarding claims 7, 19 and 28, Lehmusto discloses that prior to concurrently maintaining the second group communication session, receiving or sending an invitation for the second group communication session; and wherein the act of concurrently maintaining the second group

communication session is in response to an invitation acceptance to the second group communication session. See col. 6, line 34-48.

Regarding claims 8, 20, 30 and 34, Lehmusto discloses receiving an end user selection for communications associated with only one of the first and the second group communication sessions at a time; and in response to the end user selection, causing data packets of only the selected group communication session to be processed for communications. See col. 5, lines 47-67.

Regarding claims 9, 21, 31 and 35, Lehmusto discloses receiving an end user selection for communications with both the first and the second group communication sessions at the same time; and in response to the end user selection, causing data packets of both the first and second group communication sessions to be processed for communications. See col. 6, lines 42-48.

Regarding claims 10 and 22, Lehmusto discloses the method being performed by a mobile station which corresponds to the at least one common member, the method further including during the maintaining of the first and the second communication sessions receiving first data packets of the first communication session and second data packets of the second communication session; and causing audible signals of only one of the first and the second communication sessions to be heard at the mobile station. See col. 7, lines 27-49.

Regarding claims 11 and 23, Lehmusto discloses the method being performed by a mobile station which corresponds to the at least one common member, the method further including during the maintaining of the first and the second communication sessions receiving first data packets of the first communication session and second data packets of the second

communication sessions; and causing audible signals of the first and the second communication sessions to be heard simultaneously at the mobile station. See col. 7, lines 10-20.

Regarding claims 12 and 24, Lehmusto discloses the method being performed at a server location, the method further including during the maintaining of the first and the second communication sessions receiving first data packets of the first communication session and second data packets of the second communication session; and sending only one of the first and the second data packets to the at least one common member. See col. 7, lines 10-26.

Regarding claims 13, Lehmusto discloses the method being performed at a server location, the method further including during the maintaining of the first and the second communication sessions receiving first data packets of the first communication session and second data packets of the second communication sessions; causing audible signals of the first and the second communication sessions to be combined into resulting data packets; and sending the resulting data packets to the at least one common member. See col. 7, lines 50-62.

Regarding claims 14, Lehmusto discloses receiving encrypted data packets of the second communication session; if a key for the encrypted data packets for the second communication session is known, decrypting the encrypted data packets for the second communication session; and if the decryption key of the encrypted data packets for the second communication session is unknown, refraining from decrypting the encrypted data packets for the second communication session. See col. 6, lines 49-67.

Regarding claims 15, Lehmusto discloses that visually displaying an indication which indicates which one of the first and the second group communication sessions is being processed for communications. See col. 2, lines 33-50.

Regarding claim 29, Lehmusto discloses that the one or more processors are further operative for, during the maintaining sending data packets of the first communication session to the at least one common member; and sending data packets of the second communication session to the at least one common member. See col. 8, lines 4-34.

Regarding claim 32, Lehmusto discloses that the one or more processors are further operative to receiving encrypted data packets of the second communication session. See col. 6, lines 49-67.

Regarding claim 36, Lehmusto discloses visually displaying which one of the first and the second group communication sessions is being processed for communications. See col. 2, lines 33-50.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Willey et al. (US 2005/0141464) discloses slot reservations in a PoC system.

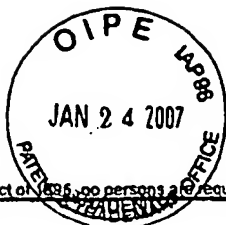
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Bhattacharya whose telephone number is (571) 272-7917. The examiner can normally be reached on Weekdays, 9-6, with first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sb


GEORGE ENG
SUPERVISORY PATENT EXAMINER



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Substitute for form 1448/PTO

(Use as many sheets as necessary)

Sheet	1	of	2
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Complete if Known

Application Number	10/789,298
Filing Date	27 February 2004
First Named Inventor	Zhao et al.
Art Unit	3601 2617
Examiner Name	Not Yet Assigned - Sam Chaito
Attorney Docket Number	0108-0241/US

U. S. PATENT DOCUMENTS

[illegible]

FOREIGN PATENT DOCUMENTS

[illegible]

Examiner Signature		Date Considered	1/5/07
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. *Applicant's unique citation designation number (optional). *See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 801.04. *Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). *For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. *Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.18 if possible. *Applicant is to place a check mark here if English language translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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of

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10/789,298

27 February 2004

Zhao et al.

~~Not Yet Assigned~~ 2617

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0108-0241/US

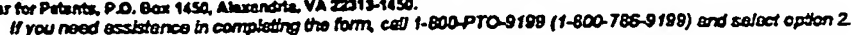
[illegible]

Considered

1/5/07

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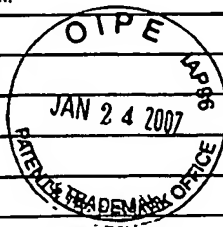
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Notice of References Cited	Application/Control No. 10/789,298	Applicant(s)/Patent Under Reexamination ZHAO ET AL.	
	Examiner Sam Bhattacharya	Art Unit 2617	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2005/0176454	08-2005	Chakraborty et al.	455/518
*	B	US-2005/0141464	06-2005	Willey et al.	370/337
*	C	US-5,809,018	09-1998	Lehmusto, Mika	370/330
	D	US-			
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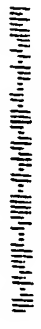
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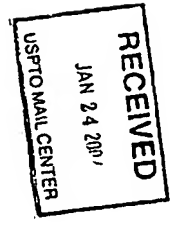
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Title METHODS AND APPARATUS FOR FACILITATING CONCURRENT PUSH-TO-TALK OVER CELLULAR (POC) GROUP COMMUNICATION SESSIONS

Live

Case Reference 11693-IIS-PAT

Family Number 11693

Country United States Of America

Filing Type National Patent

Prosecution Step Pending

Legal Status

First Filing United States Of America (PAT) - 27 Feb 2004 - 10/789298

First Priority

Critical Dates

Filing 27 Feb 2004 10/789298

Publication 10 May 2005

Grant

Abandon

Expiration 27 Feb 2024

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1693				
	27 Feb 2024			
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